

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KIM DAVIS MCADOO,

Plaintiff,

No. CIV-S-03-1209 FCD KJM P

vs.

ED ALAMEDA, et al.,

Defendants.

ORDER AND

FINDINGS AND RECOMMENDATIONS

On April 5, 2006, defendants Hahn, Castro and Alameda filed a motion to dismiss under Federal Rule of Civil Procedure 12(b). Plaintiff has not responded to the motion. Local Rule 78-230(m) requires that plaintiff file an opposition to a motion to dismiss or a statement of non-opposition. On January 10, 2006, plaintiff was advised generally that all motions to dismiss must be briefed according to Local Rule 78-230(m).

Good cause appearing, plaintiff will be granted thirty days within which to file an opposition or statement of non-opposition to defendants' April 5, 2006 motion to dismiss. Failure to comply with this order will result in a recommendation that this action be dismissed under Federal Rule of Civil Procedure 41(b) for failure to adhere to the orders and local rules of this court.

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1 Also, on April 12, 2006, the court ordered plaintiff to complete documents
2 necessary for service of process on defendant Sandberg. Plaintiff was instructed to return the
3 documents to the court within sixty days. Plaintiff has not responded to the court's order.
4 Because this action cannot proceed against Sandberg without Sandberg having been served with
5 process, the court will recommend that Sandberg be dismissed without prejudice under Federal
6 Rule of Civil Procedure 41(b).

7 In accordance with the above, IT IS HEREBY ORDERED that, within twenty
8 days of the date of this order, plaintiff shall file an opposition or a statement of non-opposition to
9 defendant Hahn, Castro and Alameda's April 5, 2006 motion to dismiss or a statement of non-
10 opposition; and

11 IT IS HEREBY RECOMMENDED that defendant Sandberg be dismissed without
12 prejudice.

13 These findings and recommendations are submitted to the United States District
14 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty
15 days after being served with these findings and recommendations, any party may file written
16 objections with the court and serve a copy on all parties. Such a document should be captioned
17 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
18 shall be served and filed within ten days after service of the objections. The parties are advised
19 that failure to file objections within the specified time may waive the right to appeal the District
20 Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

21 DATED: August 4, 2006.

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24 UNITED STATES MAGISTRATE JUDGE
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